

United States Senate

WASHINGTON, DC 20510

January 4, 2005

Honorable John Ashcroft
Attorney General of the United States
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear General Ashcroft:

As members of the United States Senate Committees on the Judiciary and Armed Services, we are deeply disturbed by a recent decision of the U.S. Court of Appeals for the Third Circuit invalidating a federal law governing military recruiting, commonly known as the Solomon Amendment, and we request your continued effort to defend that law.

Congress enacted the Solomon Amendment in 1994 to guarantee equal access for the United States military to the campuses of any college or university that receives federal funds. Specifically, the law ensures that U.S. military recruiters have an equal opportunity to recruit students for employment in the armed services. Moreover, Congress recently strengthened that law to reflect the Amendment's special importance to national security in the wake of the terrorist attacks of September 11, 2001. But in *Forum for Academic & Institutional Rights v. Rumsfeld*, 390 F.3d 219 (3rd Cir. 2004), the Third Circuit invalidated the Solomon Amendment. By a 2-1 vote, the court held that colleges and universities that receive federal funds have a constitutional right under the First Amendment to discriminate against the United States military by excluding them from on-campus recruiting.

We are concerned not simply because the Third Circuit's ruling against the Solomon Amendment is legally flawed. This ruling is potentially dangerous to our national security, and especially so in a time of war. Our military must have the ability to recruit our nation's best and brightest young men and women to serve as soldiers and the nation's best and brightest law students to serve in the JAG Corps – a need that is especially acute in wartime. Indeed, those who have harshly attacked senior Administration officials for the disturbing misconduct that occurred at Abu Ghraib should be especially supportive of your efforts to defend the Solomon Amendment. After all, to prevent future such abuses, it is not enough just to investigate misconduct and to prosecute and punish those who violate the law, as the Administration has already been doing. In addition, we must also make sure that our military is comprised of our nation's finest – men and women who know how to defend our country in a manner consistent with our values and principles.

Moreover, the court decision is an insult to our military. Veterans across the country are rightly concerned that academic and legal elites – unable to promote their hostility to the military through the democratic process – have been conducting an active and aggressive campaign in the courts to deepen the divide between military and civilian culture in our nation. It is especially alarming that such efforts have seen extraordinary and increasing success. Liberal interest groups have long actively litigated against patriotic values such as the Pledge of Allegiance and respect for the United States flag. These same groups have also recently campaigned to force the Boy Scouts off of military bases and to micromanage the war against terrorism from the bench. And now, the Solomon Amendment and the ability of our military to effectively recruit personnel is under attack. Surely the men and women of our U.S. Armed Forces deserve greater respect than this.

Accordingly, we ask that you continue to vigorously defend, and to take every step necessary to enforce, the Solomon Amendment – up to and including review by the U.S. Supreme Court.

Sincerely,

John Cornyn Lyndon
Barry Chablis Jeff Sessions